1 2 3 4 5 6 UNITED STATES DISTRICT COURT WESTERN DISTRICT OF WASHINGTON 7 AT TACOMA 8 MARVIN L. BOOTH, No. C10-5204 RBL/KLS 9 Plaintiff, 10 v. ORDER ADOPTING REPORT AND RECOMMENDATION 11 JOHN C. PIOLI, 12 Defendant. 13 The Court, having reviewed the Report and Recommendation of Magistrate Judge Karen 14 L. Strombom, objections to the Report and Recommendation, if any, and the remaining record, 15 does hereby find and **ORDER**: 16 17 1) The Court adopts the Report and Recommendation. 18 2) Defendant Pioli's motion to dismiss (Dkt. 12) is **GRANTED** in part as to Plaintiff's claims relating to the denial of his furlough request and failure 19 to assist in the filing of a grievance. 20 Defendant Pioli's motion to dismiss (Dkt. 12) is **DENIED** in part as to 3) Plaintiff's claim relating to racial discrimination; Plaintiff may file an 21 amended complaint to state facts from which a reasonable inference of 22 discrimination can be made. Plaintiff's Proposed Amended Complaint [Dkt. #16-1] shall be filed, and his Motion to Amend [Dkt. #16] is 23 **DISMISSED as MOOT.** 24 4) This matter is **re-referred** to the Honorable Karen L. Strombom, United 25 States Magistrate Judge. 26 5) Plaintiff's motion to strike (Dkt. 13) is **DENIED**. ORDER ADOPTING REPORT AND RECOMMENDATION - 1

- 6) All discovery in this matter be **STAYED** pending further order of the court.
- 7) The Clerk is directed to send copies of this Order to Plaintiff, counsel for Defendant and to the Hon. Karen L. Strombom.

**DATED** this 5<sup>th</sup> day of November, 2010.

RONALD B. LEIGHTON

UNITED STATES DISTRICT JUDGE